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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/360,521	07/23/99	RESTLE	S 05725.0446-0

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EXAMINER

WELLS, L

ART UNIT	PAPER NUMBER
1619	8

DATE MAILED:

12/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/360,521

Applicant(s)

RESTLE ET AL.

Examiner

Lauren Q Wells

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/360,521.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Election/Restrictions

The restriction requirement of the previous office action is hereby withdrawn. An action on the merits of claims 1-46 follows.

Priority

I. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.

Claim Objections

1. Claim 7 is objected to because of the following informalities: the word "one" is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-9, 13-32, 34, 36-42, and 44-46 are rejected under 35 U.S.C. 102(e) as being anticipated by DeCoster et al. (6,159,914).

DeCoster et al. teach a shampoo composition comprising sodium lauryl ether sulphate, cocobetaine, dimethyldiallylammonium chloride homopolymer, and amodimethicone. See abstract; Col. 3, line 1-Col. 5, line 64; Col. 6, lines 62-64; Col. 8, lines 8-22 and lines 48-63; Col. 9, lines 13-63.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeCoster et al. in view of Wells et al. (WO 95/01152) and Naito et al. (5,476,649).

DeCoster et al. is applied as discussed above. The reference fails to teach amphoteric/anionic surfactant ratios, 18-methyl-eicosanoic acid, cationic polymers of formula (a), and solvent percent ranges.

Wells et al. teach conditioning shampoos comprising deterative surfactants, insoluble silicones, cationic polymers, and water. Wells et al. teach (page 26-page 34) that any cationic polymer, such as those of formula (a) of claim 35, can provide conditioning benefits to the hair. Wells et al. teach (page 5, line 30-page 14, line 13 and examples 1-6) the amphoteric/anionic surfactant ratios and the solvent percent ranges of the instant invention, which meet claims 10-12 and 43.

Naito et al. teach (Col. 18, example 5) a shampoo composition comprising 18-methyleicosanoic acid, cationic polymer, anionic surfactant, and amphoteric surfactant, which meets claim 33.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted the cationic conditioning polymer of Wells et al. for that of DeCoster et al., because of the expectation of providing similar hair conditioning benefits and

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because of the teaching in Wells et al., page 27, lines 3-5. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the composition of DeCoster et al. by adding the 18-methyleicosanoic acid of Naito et al., because of the expectation of imparting excellent sensation to the hair and preventing the hairs from being damaged by environmental and/or chemical assaults, as taught by Naito et al., Col. 1, lines 59-67.

The claimed subject matter fails to patentably distinguish over the state of the art as represented by the cited references. Therefore, the claims are properly rejected under 35 U.S.C.

§ 103.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash can be reached on (703) 308-2328. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

lqw
December 19, 2000


DIANA DUDASH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1800